

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

LONGHORN HD LLC.,

Plaintiff,

v.

NETSCOUT SYSTEMS, INC.,

Defendant.

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Case No. 2:20-CV-00349-JRG-RSP

ORDER


Defendant NetScout Systems, Inc. previously filed a Motion For Partial Summary Judgment Limiting Damages For Failure To Mark Under 35 U.S.C. § 287 (the “Motion on Marking”) (Dkt. No. 70.) Magistrate Judge Payne entered a Report and Recommendation (Dkt. No. 125), recommending denying the Motion on Marking. NetScout has now filed Objections (Dkt. No. 132.)

After conducting a *de novo* review of the briefing on the Motion on Marking, the Report and Recommendation, and the briefing on NetScout’s Objections, the Court agrees with the reasoning provided within the Report and Recommendation and concludes that the Objections fail to show that the Report and Recommendation was erroneous. Consequently, the Court **OVERRULES** NetScout’s Objections and **ADOPTS** the Report and Recommendation and orders that the Motion on Marking (Dkt. No. 70) is **DENIED**.

Additionally, Judge Payne entered a Report and Recommendation (Dkt. No. 127) recommending denial of Plaintiff Longhorn HD LLC’s Motion for Partial Summary Judgment of No Invalidity Based on Arbor Peakflow DoS (“Motion for Invalidity”) (Dkt. No. 75.). Neither

party objected and the Court **ADOPTS** the Report and Recommendation and orders that the Motion for Invalidity is **DENIED**.

So ORDERED and SIGNED this 14th day of April, 2022.



RODNEY GILSTRAP
UNITED STATES DISTRICT JUDGE